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1 PUBLIC PROTECTION CABINET

2 Kentucky Horse Racing Commission

3 (Amendment)

4 811 KAR 1:220. Harness racing at county fairs.

5 RELATES TO: KRS 230.215, 230.260, 230.280, 230.290, 230.310, 230.398

6 STATUTORY AUTHORITY: KRS 230.215, 230.260, 230.398

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the
8 commission to promulgate administrative regulations prescribing the conditions under which
9 horse racing shall be conducted in Kentucky. KRS 230.398 authorizes the commission to
10 promulgate administrative regulations governing the conduct of county fair races. This
11 amendment to the existing administrative regulation updates and clarifies the conditions, races,
12 purses, and payments in races conducted at county fairs in which funds for purses are provided
13 by the commission, and regulates eligibility for participation in harness racing at county fairs.

14 Section 1. ~~Definitions. (1) "Individual" means a natural person, at least eighteen (18) years~~
15 ~~of age, but does not include any corporation, partnership, limited liability company, trust, estate,~~
16 ~~association, joint venture, or any other group or combination acting as a unit.~~

17 ~~— (2) "Individual or Person domiciled in Kentucky" means:~~

18 ~~— (a) An individual who has his permanent residence in Kentucky; or~~

19 ~~— (b) A person organized under the laws of Kentucky or registered to do business in Kentucky~~
20 ~~with the Kentucky Secretary of State.~~

1 ~~— (3) "Person" means any corporation, whether organized for profit or not, partnership,~~
2 ~~limited liability company, trust, estate, association, joint venture, or any other group or~~
3 ~~combination acting as a unit.~~

4 ~~— Section 2. Domicile. (1) The commission shall determine all questions of domicile.~~

5 ~~— (2) In determining questions of domicile, the commission shall weigh:~~

6 ~~— (a) The eligibility factors set forth in Section 3 of this administrative regulation; and~~

7 ~~— (b) Factors which indicate domicile and intent, including:~~

8 ~~— 1. The amount of time the individual spends in Kentucky each year as compared to the~~
9 ~~amount of time spent elsewhere;~~

10 ~~— 2. Whether the individual or person owns real estate in Kentucky;~~

11 ~~— 3. Whether the individual is registered to vote in Kentucky;~~

12 ~~— 4. Whether the person is organized under Kentucky law;~~

13 ~~— 5. The permanent residence of the individual or principal place of business of the person,~~
14 ~~as indicated by the records of the commission and the United States Trotting Association; and~~

15 ~~— 6. Whether the individual has a Kentucky automobile driver's license.~~

16 ~~— Section 3.] Eligibility. A horse is eligible to participate in a two (2) or three (3) year old stakes~~
17 ~~race at a county fair if:~~

18 ~~(1) The [(a) Beginning January 1, 2017, the horse is a three (3) year old sired by a stallion~~
19 ~~that was registered with the Kentucky Standardbred Development Fund and Kentucky~~
20 ~~Standardbred Breeders' Incentive Fund as defined in 811 KAR 1:215 at the time of conception;~~

21 ~~— (b) Beginning January 1, 2017, the horse is a three (3) year old whose dam was partially or~~
22 ~~wholly owned by an individual or person domiciled in Kentucky at the time of conception;~~

~~1 (c) Beginning January 1, 2017, the horse is a three (3) year old that is owned by an individual~~
~~2 or person domiciled in Kentucky;~~

~~3 (d) Beginning January 1, 2017, the horse is a two (2) year old that is "Kentucky bred" as~~
~~4 defined in 811 KAR 1:215; or~~

~~5 (e) Beginning January 1, 2018 and thereafter, the horse is a two (2) year old or a three (3)~~
~~6 year old that is "Kentucky-bred" as defined in 811 KAR 1:215;~~

7 (2) All owners of the participating horse are current members of the Kentucky Colt Racing
8 Association, Inc.;

9 (3) All owners of the participating horse hold a current license with the commission; and

10 (4) The trainer and driver of the participating horse hold current licenses with the
11 commission.

12 Section 2[4]. Track Requirements. (1) A fair shall have a safe and adequate track, and the
13 entire track, including start and finish lines, shall be visible to judges and spectators.

14 (2) The track shall be inspected and approved by a representative of the commission.

15 (3) A track shall have a hub rail or pylons approved by the commission.

16 (4)(a) A fair shall have safe and adequate stalls for participating horses.

17 (b) If permanent stalls are not available, tents or other tie-in type stalls may be used.

18 (c) Except as provided by paragraph (d) of this subsection, a county fair shall not charge stall
19 rent for horses racing at the fair.

20 (d) A county fair may charge stall rent if the fair is held on state-owned property.

21 Section 3[5]. Fair Fees. (1) The Kentucky Colt Racing Association fees shall be as follows:

1 (a) A nomination fee of fifty (50) dollars per horse due on or before February 15 of each
2 racing year;

3 (b) A sustaining fee of \$200 per horse due on or before April 15 of each racing year;

4 (c) A starting fee of fifty (50) dollars per horse, per fair, due at the time of entry for the fair;
5 and

6 (d) A twenty-five (25) dollar fee per horse for starting in an overnight race, due at the time
7 of entry for the fair.

8 (2) A \$200 payment shall be due at the time of entry for a horse eligible for the fair finals.

9 Section 4[6]. Officials. (1) The Kentucky Colt Racing Association shall submit to the
10 commission, at least sixty (60) days prior to the opening of a race meeting, a written list of racing
11 officials and applicable employees.

12 (2) At a county fair, there shall be at least one (1) presiding judge approved by the
13 commission in the judges' stand. In addition, at a meeting in which races are charted, the
14 association member shall provide both a licensed charter and licensed clerk of the course.

15 (3) A fair shall use licensed United States Trotting Association judges to preside over the
16 racing.

17 (4) The judges shall review the ownership of any horse that is entered in order to ensure
18 the horse's eligibility to race.

19 (5) The judges may determine the validity for racing purposes of any lease, transfer, or
20 agreement pertaining to ownership of a horse and may call for adequate evidence of ownership
21 at any time.

(6) The judges may declare a horse ineligible to race if the ownership or control of the horse is in question.

(7) Officials shall be paid by the Kentucky Colt Racing Association.

Section 5[7]. Starter. A fair shall use a licensed starter with adequate equipment.

Section 6[8]. Use of Entry Fees. (1) The entry fees established in Section 3(1)(c) and (d)[5(1)(c) and (d)] of this administrative regulation shall be retained by each fair as compensation for conducting its harness racing program and in reimbursement of the expenses incurred.

(2) A fair shall, upon request, make a full accounting of the entry fees to the commission.

Section 7[9]. Application for a License and Approval for Purse Distributions. (1) The Kentucky Colt Association on behalf of a[A] fair shall apply to the commission for a license to conduct a harness racing event. A request for pari-mutuel wagering shall be included at the time of application.~~[and for approval of funds by December 15 of the year prior to the year of the event. At the time of application, the request for pari-mutuel wagering shall be included.]~~

(2) Distribution of revenue for the Kentucky County Fairs shall be reviewed annually, not later than December 15 of each calendar year, by the advisory panel established in 811 KAR 1:215.

Section 8[10]. Changes in Racing Program. A fair shall have the right to change the order of its program and to postpone or cancel an event due to bad weather or unavoidable cause. If a race is canceled because of lack of entries, entry fees shall be refunded.

Section ~~9~~¹¹. Early Closers. (1) An early closing event, and all divisions of that event, shall race a single heat at a distance of one (1) mile and shall be contested for a purse approved by the commission on an annual basis.

(2) An early closing race shall be contested regardless of the number of entries. However, a fair may cancel an overnight race with less than five (5) entries.

Section ~~10~~¹². Number of Starters and Purse Distributions~~[Division of Races]~~. There shall be no more than two (2) trailers in any race at a county fair.

(1) On a one-mile track, there shall be ten (10) horses on the gate and the race shall split on eleven (11) horses.~~[If a two (2) year old race is divided into divisions, each division shall race for the entire amount of the advertised purse for the race].~~

(2) On a one-half (1/2) mile track or five-eighths (5/8) mile track, there shall be five (5) horses on the gate with two (2) trailers and the race shall split on eight (8) horses~~[If a three (3) year old race is divided into divisions, each division shall race for a purse of \$2,500].~~

(3)~~[Beginning January 1, 2018 and thereafter, if a race is divided into divisions, each division shall race for the entire amount of the advertised purse for the race.~~

~~(4)~~ The purse for each race shall be divided as follows:

(a) Five (5) starters - fifty (50) percent, twenty-five (25) percent, twelve (12) percent, eight (8) percent, and five (5) percent;

(b) Four (4) starters - fifty (50) percent, twenty-five (25) percent, twelve (12) percent, eight (8) percent, and the remaining five (5) percent reverts back to the fund~~[fifteen (15) percent, and ten (10) percent];~~

1 (c) Three (3) starters – fifty (50) percent, twenty-five (25) percent, twelve (12) percent, and
2 the remaining thirteen (13) percent reverts back to the fund~~[fifty-five (55) percent, thirty (30)~~
3 ~~percent, and fifteen (15) percent]~~;

4 (d) Two (2) starters – fifty (50) percent, twenty-five (25) percent, and the remaining twenty-
5 five (25) percent reverts back to the fund~~[sixty-five (65) percent and thirty-five (35) percent]~~; and

6 (e) One (1) starter – fifty (50) percent, and the remaining (50) percent reverts back to the
7 fund~~[100 percent]~~.

8 Section 11~~[13]~~. Points Distribution. (1) Points shall be awarded in an early closing race, and
9 any division of an early closing race, as follows:

10 (a) First place finisher - fifty (50) points;

11 (b) Second place finisher - twenty-five (25) points;

12 (c) Third place finisher - twelve (12) points;

13 (d) Fourth place finisher - eight (8) points;

14 (e) Fifth place finisher - five (5) points; and

15 (f) Each starter that finishes out of the money - one (1) point.

16 (2) If two (2) horses dead-heat for any position, they shall each receive one-half (1/2) of the
17 points awarded for that position and one-half (1/2) of the points awarded for the next lower
18 position. The same procedure shall be used for the allocation of points if there is a dead-heat of
19 three (3) or more horses.

20 (3) A horse that is declared in and then is the subject of a judge's scratch shall be awarded
21 one (1) point based upon the decision of the presiding judge. This decision shall be final.

1 (4)~~[A horse that starts in a Kentucky Sires Stake race within three (3) days of a scheduled~~
2 ~~county fair race of the same class shall be awarded a county fair start and one (1) point.~~

3 ~~— (5)~~ If there is a tie among two (2) or more horses with the same number of points, the tie
4 shall be resolved in favor of the horse with the higher earnings in the early closing fair events in
5 which the horses have competed.

6 (5)~~[(6)]~~ If any division of a race is rained out before the completion of all other divisions of
7 that race, the points for distribution set forth in 811 KAR 1:220, Section 11 ~~[13]~~, shall not apply
8 and instead, one (1) point shall be awarded to each horse entered in each division of that race
9 that was rained out.

10 Section 12~~[14]~~. Entry Limitation. A horse shall not be allowed to compete in more than one
11 (1) race at any fair.

12 ~~[Section 15. Change in Ownership. In order for a three (3) year old horse, for whom the~~
13 ~~nomination fee has been paid, to remain eligible to race at a county fair during the calendar year~~
14 ~~of 2017 after there has been a transfer of ownership, the following payments shall be required:~~

15 ~~— (1) \$300 the first time ownership is transferred from the owner at the time of nomination;~~
16 and

17 ~~— (2) An additional \$600 thereafter if the same horse is again transferred.]~~

18 Section 13~~[16]~~. Drug Testing. (1) The winning horse at a fair race and any other horse or
19 horses as selected by the judges may be subjected to a drug test as set forth in 811 KAR 1:090
20 and 811 KAR 1:260.

21 (2) A fair shall provide two (2) enclosed stalls and bedding to be used by the commission
22 veterinarian for drug testing.

(3) The stalls required by subsection (2) of this section shall be located as close to the race track as possible.

(4) The stalls shall be positioned to allow the track announcer to be heard.

Section 14~~[17]~~. Coggins Test. A current negative Coggins test shall be required for each horse racing at a fair.

Section 15~~[18]~~. Drivers. A driver shall wear full colors, white pants, a safety vest that meets the standards set forth in 811 KAR 1:075, Section 21, and a safety helmet that meets the standards set forth in 811 KAR 1:075, Section 20, if on the track less than one (1) hour before the start of a fair racing program.

Section 16~~[19]~~. Trophies. A fair shall provide a trophy or blanket to the winner of a race. If a race is contested in heats or divisions, the trophy shall be presented to the winner of the fastest heat or division.

Section 17~~[20]~~. Early Deadlines. The deadline for entries at a fair shall be set by the Kentucky Colt Racing Association at its annual October meeting preceding the racing year.

Section 18~~[21]~~. Programs. A county fair track holding races for purses shall provide a printed program available to the public containing the following information for:

(1) Non pari-mutuel tracks:

(a) Horse's name and sex;

(b) Color and age of horse;

(c) Sire and dam of horse;

(d) Owner's name;

(e) Driver's name and colors;

1 (f) Trainer's name; and

2 (g) Summary of starts in purse races, earnings, and the best win time for the current and
3 preceding year. A horse's best win time may be earned in either a purse or nonpurse race; and

4 (2) Pari-mutuel tracks:

5 (a) All of the program information required by subsection (1) of this section;

6 (b) At least the last six (6) performance and accurate chart lines. An accurate chart line shall
7 include:

8 1. Date of race;

9 2. Location of race;

10 3. Size of track if other than a one-half (1/2) mile track;

11 4. Symbol for free-legged pacers;

12 5. Track condition;

13 6. Type of race;

14 7. Distance;

15 8. The fractional times of the leading horse including race times;

16 9. Post position;

17 10. Position of the one-quarter (1/4) marker, the one-half (1/2) marker, and the three-
18 quarters (3/4) marker;

19 11. Stretch with lengths behind leader;

20 12. Finish with lengths behind leader;

21 13. Individual time of the horse;

22 14. Closing dollar odds;

1 15. Name of the driver;

2 16. Names of the horses that placed first, second, and third by the judges; and

3 17. Standard symbols for breaks and park-outs, if applicable;


4 (c) Indicate drivers racing with a provisional license; and

5 (d) Indicate pacers that are racing without hobbles.

6 Section 19[22]. Payments. Nomination and sustaining payments shall be made to the
7 Kentucky Colt Racing Association. Entry fees shall be paid to the fair for which the entry is taken.

8 Section 20[23]. Violations. A person or association that violates a provision of this
9 administrative regulation shall have committed a Category 1 violation and shall be subject to the
10 penalties set forth in 811 KAR 1:095.

READ AND APPROVED:


Franklin S. Kling, Jr., Chairman
Kentucky Horse Racing Commission

12/12/17
Date


David A. Dickerson, Secretary
Public Protection Cabinet

DEC 12, 2017
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2018 at 10:00 a.m., at the office of the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify the Kentucky Horse Racing Commission in writing by January 17, 2018, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m., January 31, 2018. Please send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: John L. Forgy
General Counsel
Kentucky Horse Racing Commission
4063 Iron Works Parkway, Building B
Lexington, KY 40511
Phone: (859) 246-2040
Facsimile: (859) 246-2039
Email: John.Forgy@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No.: 811 KAR 1:220

Contact Person: John L. Forgy, General Counsel, Kentucky Horse Racing Commission;
Telephone: (859) 246-2040; Email: John.Forgy@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation prescribes the conditions under which harness racing shall be conducted at county fairs. Specifically, KRS 230.398 authorizes the Commission to promulgate regulations establishing eligibility requirements for horses participating in races held at Kentucky County Fairs. This regulation establishes eligibility for horses, conditions for races and purse distributions for races held at approved county fairs.

(b) The necessity of this administrative regulation: This regulation is necessary to exercise the statutory authority of the KHRC set forth in KRS 230.398. Specifically, this regulation is necessary to establish the eligibility requirements and purse distributions for horses participating in harness racing at Kentucky County Fairs.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the statutory authority granted to the Kentucky Horse Racing Commission by KRS 230.215(2), KRS 230.260(8), and 230.398.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by outlining the qualifications for a horse to participate in harness racing at Kentucky county fairs and for the owner of that horse to receive purse distributions.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment is necessary to update the text of the administrative regulation to reflect the current realities of harness racing at county fairs. Specifically, this amendment:

- Removes outdated language pertaining to horses that are not bred in Kentucky but rather owned or partially owned by individuals residing in Kentucky;
- Synchronizes eligibility requirements for both two-and-three year olds so that all horses racing in the county fairs meet the Kentucky-bred requirements of 811 KAR 1:215; and
- Clarifies the approval of county fairs and purse distributions.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to synchronize the eligibility requirements so all horses race under the same rules. This

amendment is also necessary to clarify the licensing approval process for county fairs and process for reviewing purse distributions.

(c) How the amendment conforms to the content of the authorizing statute: KRS 230.398 requires the commission to "promulgate administrative regulations as may be necessary for the conduct of these races." This amendment fulfills that statutory mandate by implementing the changes outlined in (2)(a) above to facilitate harness racing at county fairs.

(d) How the amendment will assist in the effective administration of the statutes: This amendment creates eligibility requirements for Standardbred horses racing at county fairs and for purse distributions at the approved county fairs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect: standardbred breeders; standardbred owners; boarding farm owners and employees; Kentucky veterinarians and equine healthcare facilities; horse transportation companies, farriers; farmers and suppliers of hay, feed and grain; equine supply companies; daily maintenance care and tack; Kentucky standardbred sale companies; retail stores and maintenance services; Kentucky Colt Association; the Kentucky counties hosting the fair; hotels and gas stations located near the county fairs; and state and local government entities which impose payroll taxes.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment expands the racing opportunities for owners and trainers of Kentucky-bred standardbred horses. All other entities identified in (3) will not acquire any additional responsibilities, but will reap the benefits of a stronger breeding industry in Kentucky as well as a supported fair circuit.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None of the entities identified in (3) will incur any costs in complying with the amendments. Rather, this amendment specifically offers more racing opportunities for Kentucky-bred standardbred horses. There are no changes in fees to participate in the county fairs and the Kentucky Colt Association pays for the race officials at each county fair.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment expands the racing opportunities for owners and trainers of Kentucky-bred standardbred horses. The amendment will increase the numbers of Kentucky-bred standardbred horses eligible to race in the county fairs. The amendment will also increase the number of participants at each county fair; will benefit the counties, hotels, gas stations, state and local government entities imposing payroll taxes, and all other persons and entities identified in (3).

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no initial administrative cost to implement this amendment.

(b) On a continuing basis: There is no continuing cost to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This amendment will not require a source of funding for implementation and enforcement.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment will not require an increase in fees or funding to implement.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment does not establish any fees or directly or indirectly increase fees.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used.) Tiering is not applied because this amended regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No.: 811 KAR 1:220

Contact Person: John L. Forgy, General Counsel, Kentucky Horse Racing Commission;
Telephone: (859) 246-2040; Email: John.Forgy@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission and the counties that conduct harness racing as part of their annual county fairs will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The statutory authority for this administrative regulation is found in KRS 230.215, 230.260, and 230.398.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Although there are no fees that will generate revenue for state or local governments, there will be an increase in payroll taxes and potential tourism dollars for all participants as noted in the Regulatory Impact Analysis & Tiering Statement, Section (3).

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Continued growth in the program will increase payroll taxes and potential tourism dollars for all participants as noted in the Regulatory Impact Analysis & Tiering Statement, Section (3).

(c) How much will it cost to administer this program for the first year? There will be no cost to the agency administer this program because the program is administered by the Kentucky Colt Association. The Kentucky Colt Association is not a state agency.

(d) How much will it cost to administer this program for subsequent years? There will be no cost to the agency to administer this program in subsequent years because the program is administered by the Kentucky Colt Association. The Kentucky Colt Association is not a state agency.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No impact.

Expenditures (+/-): No impact.

Other Explanation: None.